

REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on September 17, 2003, and the references cited therewith.

The claims of the non-elected invention, claims 34-35, are hereby cancelled.

However, Applicant reserves the right to later file continuations or divisions having claims directed to the non-elected inventions.

Claims 11, 14, 21, 36, 37, 38, and 43 are amended, claims 12, 34, 35 are cancelled, and claims 44-45 are added; as a result, claims 11, 13-24, 31, 33, 36-40 and 42-45 are now pending in this application.

Claim 11 is amended to include the limitation of claim 12. Claim 21 is amended to include the limitation of claim 12.

Applicant acknowledges withdrawal of the indicated allowability of claims 11-12, 14-15, 18-20 and 32-33.

Election/Restriction

The Examiner restricted claims 13, 16, 17, 25-30, 34-38 and 41. Applicant respectfully traverses with respect to claims 13, 16, 17, 25-30, 36-38 and 41, each of which depends on a claim that appears to be in condition for allowance. Reconsideration and withdrawal of the restriction with respect to these claims is respectfully requested.

Applicant has cancelled **claims 34-35**. However, Applicant reserves the right to later file continuations or divisions having claims directed to the non-elected inventions.

§103 Rejection of the Claims

Claims 11-12, 14-15, 18-24, 31, 33, 39-40 and 42-43 were rejected under 35 USC § 103(a) as being unpatentable over Ovshinsky et al. (US 5,411,592) in view of Goldner et al. (US 5,189,550). Claims 11-12, 14-15, 18-24, 31, 33, 39-40 and 42-43 were also rejected under 35 USC § 103(a) as being unpatentable over Ovshinsky et al. (US 5,411,592) in view of Martin et

al.'s publication "Modification of the optical and structural properties of dielectric films by ion-assisted deposition" (Martin et al.). Applicant respectfully traverses.

Traverse and Request under MPEP 2144.03

The Examiner previously asserted ("noted," rather than providing or citing a reference) that sputtering and laser ablation were ion-assist deposition techniques. Applicant again reiterates our previous traversal and request **under MPEP 2144.03 that the Examiner provide a reference in support of that unsupported assertion. The Office Action failed to provide this support as required under MPEP 2144.03.** Sputtering and laser ablation are not ion-assist techniques. Laser ablation is a process that uses a laser to ablate a source material (according to *The American Heritage Dictionary of the English Language, 3rd Edition*, Houghton Press, 1992: "to remove by erosion, melting, evaporation, or vaporization"); thus the laser photons (not ions) is causing removal (not deposition). Sputtering is also process that causes removal of material (according to *The American Heritage Dictionary of the English Language, 3rd Edition*, Houghton Press, 1992: "to cause the atoms of a solid to be removed from a surface by bombardment with atoms in a discharge tube"); thus even when sputtering is done with ions, it is causing removal (not deposition). The removed material can then be carried across the deposition chamber and deposited. The Examiner has failed to provide a prima facie case for anticipation, so the rejection should be withdrawn.

Further, neither Ovshinsky et al. nor Goldner et al. provide deposition of a photocell on the battery. Ovshinsky at column 11 lines 39-43 describes having a stainless steel substrate (not a low-temperature substrate) with amorphous silicon solar cells on one side and depositing these thin-film batteries onto the stainless steel substrates on the OPPOSITE side of the solar cells. In contrast, the present invention describes and claims "a deposition station that deposits a photovoltaic cell on the battery." Thus, claims 11 and 21, and their dependent claims (11, 13-20, 39-40 and 42-43) distinguish over the cited combination of references. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Further, with regard to claims 21 and 43 and their dependent claims, these are a means-plus-function claims, and must be examined under 35 U.S.C. 112 paragraph 6 with regard to the structure shown and described in the present invention as compared to that of the references. Goldner et al. do not appear to provide any structure for accomplishing their ion assist. .

Accordingly, reconsideration and withdrawal of the rejection with regard to these claims is further respectfully requested.

Claim 22 recites “a plurality of deposition stations that deposit layers onto the substrate including a first deposition station and a second deposition station, wherein the first and the second deposition stations *each supply energy* to the layer to aid in crystalline layer formation while controlling a stoichiometry of the respective crystalline layers without substantially heating the substrate.” The cited references do not provide this claimed combination. Thus, claim 22, and its dependent claims (23-33) distinguish over the cited combination of references. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claims 11, 20-22 and 43 were rejected under 35 USC § 103(a) as being unpatentable over Japanese document JP 62-044960 in view of Goldner et al. (US 5,189,550). Claims 11, 20-22 and 43 were also rejected under 35 USC § 103(a) as being unpatentable over Japanese document JP 62-044960 in view of Martin et al.’s publication “Modification of the optical and structural properties of dielectric films by ion-assisted deposition” (Martin et al.). Applicant respectfully traverses. None of these references describe the “deposition station that deposits a photovoltaic cell on the battery.” Thus, these claims distinguish over the cited combination of references. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claim 32 was rejected under 35 USC § 103(a) as being unpatentable over Ovshinsky et al. (US 5,411,592) in view of: a) Goldner et al. 9US 5,189,550), or b) Martin et al.’s publication “Modification of the optical and structural properties of dielectric films by ion-assisted deposition” (Martin et al.) as applied to claim 11 above, and further in view of Matsui et al. (US 5,558,953). Claim 32 depends on claim 11, and appears in condition for the reasons provided above for claim 11. Further, Matsui does not describe a photovoltaic cell on the battery, and the claimed combination of claim 32. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney ((612) 373-6901) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743

Respectfully submitted,

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20 January 2004 By Charles A. Lemaire

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 20th day of January, 2004.

Gregory A. Lemaire

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Signature

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